App. F. IX-4

1940

Previous References 193 . ( ) Legis

File No. 2-40

Serial Nos. 66

Later References.

(6)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. One only

Part B for March 41

SUBJECT.

Amendment to Defence of India Rules.

WD 0578—GPB—22,500—12-9-39

B.B. Shamsher
20-3-41

Defence of India Rules - Amendments to [illegible]

General and Revenue Secretariat | File No. | of 194 | [App. F. III-2

Serial No.

From

The Secretary to the Hon'ble the Resident

No. 73-40/W dated 6.3.41

re amendment of penalty provisions in the Defence of India Rules.

1 The present penalty provisions in the Defence of India Rules provide for sentence of imprisonment in all cases, the sentence of fine being one that may be awarded in addition. A sentence of imprisonment is therefore compulsory in all cases.

2 It is stated that the Government of India consider it desirable to amend these provisions and permit of sentences of fine being imposed either as an alternative or in addition to a sentence of imprisonment.

3 They have accordingly amended the Rules. The penalty will still remain a matter for the discretion of the Courts and the amendment must not be taken as an indication of any opinion of the Government regarding the appropriateness of a sentence of fine in any case.

4 As usual, the notification amending the Rules, will be republished here. Also the Press note.

Submitted with a draft.

8/3/41

5) Is it not necessary to amend the Rules also?

11/3

8. MAR. 1941 R.Y. T. OF MYSORE.

6) The Defence of India Rules have been applied to Mysore mutatis mutandis and subject to any amendments to which the said Rules are for the time being subject in British India. All amendments to the Defence of India Rules

Flag Y.

NOTE—Contn. Sheet.

2-40-66

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notified from time to time in British India are therefore merely republished here for general information.

7 Submitted with reference to para 5 supra.

12.3.41

For perusal.

1st member)

MK 12/3

13/3/41

MK 14/3/41

Secret 14719 Gyi 2-40-66 d 18.3.41 Complete

MAR 12 1941 9093

The reply to this communication should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

SECRET. No. F.3-40/W.

5147 pdlo

FROM

THE SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore, Bangalore.

Dated Bangalore, the 6th March *1941.*

C.B. 43/41

Amendment of penalty provisions in the Defence of India Rules.

SIR,

I am directed to say that the formula employed in all the penalty clauses of the Defence of India Rule is "..... shall be punishable with imprisonment for a term which may extend to.....and shall also be liable to fine". The effect of this formula is that, while it is possible to impose a sentence of imprisonment without imposing a sentence of fine, it is not possible to impose a sentence of fine without also imposing a sentence of imprisonment.

2. It is of course open to a court which considers that fine rather than imprisonment is the appropriate penalty for an offence to impose a nominal sentence of imprisonment only; but still in order to comply with the letter of the law the court must impose some sentence of imprisonment, and it would appear to be clearly undesirable that a court should, in a case where it considers that a penalty of fine alone is appropriate, have to comply with this formal requirement.

3. The Government of India therefore consider it desirable to adopt a formula which will enable a penalty of fine to be imposed either as an alternative or in addition to a sentence of imprisonment, and to this end they have amended the rules so as to follow the formula which is actually employed in clause (ii) of sub-section (3) of section 2 of the Defence of India Act, viz.

"shall

"shall be punishable with imprisonment for a term which may extend to.....or with fine or with both". This amendment is not in any way to be taken as an indication of the Government of India's opinions regarding the appropriateness of a sentence of fine in any class of case. The appropriate penalty will remain a matter for the discretion of the trying court; and the only difference will be that, if the court considers that a penalty of fine only will meet the case, it will be able to impose that penalty without the technical necessity of imposing at the same time a nominal sentence of imprisonment.

4. A copy each of Defence Co-ordination Department notification No.701-O.R./41 and Press Note dated the 15th February 1941 is enclosed.

I have the honour to be,
Sir,
Your most obedient servant,

SECRETARY TO THE RESIDENT.

VN

THE HON'BLE THE RESIDENT IN MYSORE

NOTIFICATION.

No. F. 3-40/W, dated Bangalore, the 1st March 1941.

The following notification of the Government of India, Defence Co-ordination Department, No. 701-OR/41, dated the 15th February 1941, and Press Note dated the 15th February 1941, are republished.

A. MACANN,
Secretary to the Resident.

DEFENCE CO-ORDINATION DEPARTMENT.

NOTIFICATION.

New Delhi, the 15th February 1941.

No. 701-OR./41.—In exercise of the powers conferred by section 2 of the Defence of India Act, 1939 (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely :—

In sub-rule (*5*) of rule 6, sub-rule (*4*) of rule 8, sub-rule (*3*) of rule 9, sub-rule (*4*) of rule 10, sub-rule (*2*) of rule 11, sub-rule (*2*) of rule 12, sub-rule (*3*) of rule 13, sub-rule (*4*) of rule 14, sub-rule (*2*) of rule 15, sub-rule (*5*) of rule 16, sub-rule (*2*) of rule 17, sub-rule (*5*) of rule 19, sub-rule (*3*) of rule 20, sub-rule (*2*) of rule 21, sub-rule (*8*) of rule 22, sub-rule (*2*) of rule 23, sub-rule (*2*) of rule 24, sub-rule (*4*) of rule 25, sub-rule (*6*) of rule 26, sub-rule (*2*) of rule 27, sub-rule (*4*) of rule 28, sub-rule (*4*) of rule 29, sub-rule (*5*) of rule 31, sub-rule (*2*) of rule 32, sub-rule (*5*) of rule 33, sub-rule (*4*) of rule 35, sub-rule (*2*) of rule 36, sub-rule (*3*) of rule 37, sub-rule (*5*) of rule 38, sub-rule (*6*) of rule 39, sub-rule (*4*) of rule 40, sub-rule (*3*) of rule 41, sub-rule (*7*) of rule 42, the proviso to rule 43, sub-rule (*5*) of rule 45, sub-rule (*3*) of rule 46, sub-rule (*3*) of rule 47, sub-rule (*4*) of rule 48, sub-rule (*4*) of rule 49, sub-rule (*4*) of rule 51, sub-rule (*5*) of rule 52, sub-rule (*2*) of rule 53, sub-rule (*4*) of rule 54, sub-rule (*3*) of rule 55, sub-rule (*4*) of rule 56, sub-rule (*4*) of rule 57, sub-rule (*2*) of rule 58, sub-rule (*3*) of rule 59, sub-rule (*2*) of rule 60, sub-rule (*2*) of rule 60A, sub-rule (*3*) of rule 61, sub-rule (*3*) of rule 62, sub-rule (*3*) of rule 63, sub-rule (*2*) of rule 64, sub-rule (*5*) of rule 65, sub-rule (*3*) of rule 66, sub-rule (*3*) of rule 67, sub-rule (*6*) of rule 68, sub-rule (*2*) of rule 69, sub-rule (*2*) of rule 70, sub-rule (*4*) of rule 72, sub-rule (*6*) of rule 73, sub-rule (*2*) of rule 74, sub-rule (*3*) of rule 75, sub-rule (*3*) of rule 76, sub-rule (*3*) of rule 76A, sub-rule (*5*) of rule 78, sub-rule (*4*) of rule 79, sub-rule (*2*) of rule 80, sub-rule (*4*) of rule 81, sub-rule (*4*) of rule 82, sub-rule (*4*) of rule 83, sub-rule (*2*) of rule 85, sub-rule (*3*) of rule 85B, sub-rule (*2*) of rule 86, sub-rule (*3*) of rule 89, sub-rule (*3*) of rule 90, sub-rule (*2*) of rule 90A, sub-rule (*7*) of rule 90B, sub-rule (*5*) of rule 91, sub-rule (*3*) of rule 92, sub-rule (*4*) of rule 93, sub-rule (*7*) of rule 94, sub-rule (*3*) of rule 98, rule 101A, rule 102, sub-rule (*4*) of rule 104, rule 108, rule 109, sub-rule (*3*) of rule 112, sub-rule (*2*) of rule 113, sub-rules (*4*) and (*5*) of rule 114, sub-rule (*3*) of rule 115, sub-rule (*2*) of rule 116, rule 117, sub-rule (*2*) of rule 117A, sub-rule (*2*) of rule 118, sub-rule (*3*) of rule 119 and rule 120 of the said Rules, for the words " and shall also be liable to fine " the words " or with fine or with both " shall be substituted.

A. DEC. WILLIAMS,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

DEFENCE CO-ORDINATION DEPARTMENT.

PRESS NOTE.

FINE WITHOUT IMPRISONMENT—DEFENCE OF INDIA RULES AMENDED.

A number of Defence of India Rules have been amended by a notification published today so as to provide that anyone contravening them shall be punishable with imprisonment or with fine or with both.

The effect of the present wording of the penalty clauses of the great majority of the Rules is that it is not legally admissible for a sentence of fine to be imposed without a sentence of imprisonment, substantive or nominal, being passed at the same time. For certain offences, a sentence of fine without the addition of imprisonment is manifestly appropriate, and to this end the Rules have been amended.

New Delhi, the 15th February 1941.

1179 (3)—5-3-1941—25—RPB.

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GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. P 4219 Dept
Dept 2-40-66.

General and Revenue Secretariat,

Dated Bangalore, ... ~~xxxxxxx~~ *...193* 41

NOTIFICATION.

The following notification and Press Note of the Government of India, Defence Co-ordination Department, are hereby republished for general information.

By order,

MK
N/D
Secretary to Government
for Law Department

To

The Compiler, Kannada Gazette, for publication in Part IV and sending 100 spare copies to this office very early.

F. No. 12.